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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,346	02/17/2004	Kyle Marvin	BEAS-01444US1	9956
23910	7590	07/02/2007		
FLIESLER MEYER LLP 650 CALIFORNIA STREET 14TH FLOOR SAN FRANCISCO, CA 94108			EXAMINER KENDALL, CHUCK O	
			ART UNIT 2192	PAPER NUMBER
			MAIL DATE 07/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/780,346

Applicant(s)

MARVIN ET AL.

Examiner

Chuck O. Kendall

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-69 is/are pending in the application.
- 4a) Of the above claim(s) 1-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to application filed 04/09/07.
2. Claims 48 – 69 have been examined.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 58 – 69 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims draw limitations to a system of software per se. Based on the Interim guidelines for Patent Applications:

" ...Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory)..."

Double Patenting

5. Claims 48 – 69 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 22 of copending Application No. US 2003/0167358. Although the conflicting claims are not

identical, they are not patentably distinct from each other because '7358 appears to be an obvious modification of Applicant's current application with regards to proxy definitions, an annotation system and extended the proxies as disclosed in all the independent claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 48 – 69 are rejected under 35 U.S.C. 102(a) as being anticipated by Marvin et al. 20030167358.

Regarding claims 48 and 58, Marvin anticipates a method for creating a proxy object capable of communication with an external entity, comprising:

specifying a proxy object definition for the proxy object, wherein the proxy object definition specifies the properties of the proxy object through the use of an extensible

source code annotation system and defines a first function for communicating with the external entity (Figure 3, 302, also see 0069);

specifying at least one implementation class for the proxy object definition, wherein the at least one implementation class does not implement the first function and includes functionality to support one of:

proxy object design, software compilation and software execution (Figure 3, 306); and

compiling the proxy object definition and/or the at least one implementation class, comprising [0048];

automatically recognizing information supplied in annotations [0069]; and using the recognized information supplied in annotations to extend proxies [0073].

Regarding claims 49 and 67, the method of Claim 48, wherein: the extensible source code annotation system is special JavaDoc comments [0070].

Regarding claim 50, the method of claim 48 wherein: the external entity can be one of:

a database, a legacy system, and a software application [0060].

Regarding claim 51, the method of claim 48, further comprising: specifying at least one callback declaration (Figure 3, 305).

Regarding claims 52 and 61, the method of claim 48 wherein:

the functionality to proxy object software design includes a wizard that can guide the creation of the proxy object [0051].

Regarding claims 53 and 62, the method of claim 48 wherein:

the functionality to support software compilation includes at least one function to validate function calls and property settings in source code [0053].

Regarding claims 54 and 63, the method of claim 48 wherein:

the functionality to support software execution includes at least one function to acquire and release at least one resource and includes the ability to invoke a function on the external entity [0054].

Regarding claims 55 and 64, the method of claim 48 wherein:

the proxy object can inherit from a proxy object interface declaration at least one of:
a function, a property and a callback [0053].

Regarding claims 56 and 66, the method of claim 48 wherein: the proxy object definition includes a declaration of the first function (Figure 3, 305).

Regarding claims 57 and 65, the method of claim 48 wherein:

the proxy object can inherit from a proxy object interface declaration at least one of: a function, a property and a callback (Figure 3, 305).

Regarding claim 59, the system of claim 58, further comprising:

the compiler is capable of generating metadata that can be used by the proxy object at runtime to invoke the first function [0089].

Regarding claim 60, the system of claim 58, further comprising:

at least one callback declaration [0072].

Regarding claim 68 see rationale as disclosed in claims 48 above.

Regarding claim 69, the method of claim 68, further including compiling the proxy object definition and/or the at least one implementation class, which compiling step comprises:

automatically recognizing information supplied in annotations [0073]; and
using the recognized information supplied in annotations to extend proxies [0073].

Response to Arguments

8. Applicant's arguments with respect to claims 48 – 69 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN 6,360,358 B1.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-272-3698. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Art Unit: 2192

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OK


TED VO
PRIMARY EXAMINER